

VZCZCXYZ0000
RR RUEHWEB

DE RUEHLP #0301/01 0452145
ZNR UUUUU ZZH
R 142145Z FEB 08
FM AMEMBASSY LA PAZ
TO RUEHC/SECSTATE WASHDC 6438
INFO RUCPDO/DEPT OF COMMERCE WASHINGTON DC
RUEATRS/DEPT OF TREASURY WASHINGTON DC

UNCLAS LA PAZ 000301

SIPDIS

SIPDIS

IPE JENNIFER BOGER

E.O. 12958: N/A
TAGS: [PGOV](#) [ECON](#) [KIPR](#) [BL](#)
SUBJECT: BOLIVIA: INPUT FOR 2008 SPECIAL 301 REVIEW

REF: 07 LA PAZ 435

SUMMARY

11. (U) Post recommends that Bolivia remain on the Special 301 Watch List in 2008. Piracy and counterfeiting remain serious problems, existing intellectual property rights (IPR) legislation remains weak, and enforcement remains inadequate. Post believes prospects for improvement are slim, especially given the Morales' administration's inattention to IPR. Post does not recommend any stronger steps against Bolivia at this time, however, as such an action could encourage anti-American rhetoric and damage ongoing USAID and Embassy efforts to create an education and outreach program on IPR with the Bolivian government and the general public. End summary.

- - - - -
IPR VIOLATIONS RAMPANT
- - - - -

12. (U) Piracy and counterfeiting are widespread. Bootleg CDs, DVDs, and other goods are sold on street corners and in stores across the country, and vendors operate with no fear of punishment. Prominent IP lawyers estimate that there are no legal sources of audio-visual materials in most of the country. Counterfeiting, according to Pfizer executives, is an equally serious problem, with domestic sales undercut by copycat products and companies' reputations damaged by ineffective or dangerous knockoffs.

- - - - -
IPR LEGISLATION, ENFORCEMENT WEAK
- - - - -

13. (U) Existing IPR legislation remains weak. The 1992 Copyright Law predates the international standards established under the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) and falls short of obligations under the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, both of which Bolivia has signed but not yet ratified.

14. (U) IPR enforcement efforts are inadequate, despite recognition of copyright infringement as a public offense in the 1992 Copyright Law and provisions for the criminal prosecution of IPR violations in the 2001 Criminal Procedures Code. Criminal charges are rarely filed, and civil suits, if pursued, run into long delays. Criminal penalties are limited to up to five years in jail, and civil penalties are restricted to the recovery of direct economic damages. Bolivian customs authorities continue to try to intercept counterfeit goods shipments at international borders, but the

customs service lacks the human and financial resources needed to be effective.

- - - - -
DRAFT CONSTITUTION WEAKENS PHARMA PROTECTION
- - - - -

¶5. (U) It is not certain if the new constitution drafted by the ruling Movement Toward Socialism (MAS) party will pass unchanged or at all. If it were to pass, however, the draft constitution would weaken property rights, particularly for pharmaceuticals. The new constitution would allow for private property rights only if they have a social function and are not against the "collective interest." Intellectual property rights for traditional knowledge and cultural items would be emphasized. (Comment: The Bolivian National Intellectual Property Service is already focusing on this registry, to the detriment of industrial property claims. End comment.) The public would be given a role in "medical system decisions", and the medical system would specifically prioritize the use of generics. In addition, the draft constitution states that "access to medicines can not be restricted due to intellectual property rights."

- - - - -
Comment
- - - - -

¶6. (U) Post believes that short-term prospects for greater recognition and protection of IP are slim. The US Mission in Bolivia is, however, currently developing a public outreach campaign to attempt to improve knowledge of IP in the government and select public audiences. While the IPR situation in Bolivia merits continued standing on the Watch List, Post recommends against any stronger action at this time. Placement of Bolivia on the Priority Watch List would have no positive practical effect, and Post's plans for an IP education campaign within the Bolivian government would be damaged if Bolivian officials reacted to a change in Special 301 status. For these reasons, Post recommends no change to Bolivia's Special 301 Watch List status. End comment.
GOLDBERG